

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

NO.: 22-MJ-0096 LF

GABRIEL MONICO GUEVARA,

Defendant.

**UNOPPOSED MOTION TO CONTINUE TIME LIMIT
FOR FILING OF INDICTMENT OR INFORMATION**

COMES NOW, Defendant, Gabriel Guevara, by and through his attorney of record, Erlinda O. Johnson, Esq., and pursuant to 18 U.S.C. § 3161, files this unopposed motion to continue the time limit set forth in 18 U.S.C. § 3161(b) for filing an indictment or information for 60 days, and as grounds therefor states as follows:

(1) Mr. Guevara was arrested on February 4, 2022, and charged with Possession with intent to distribute marijuana, in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(D) and possession of a firearm in furtherance of a drug trafficking crime, in violation of 18 U.S.C. § 924(c).

(2) On February 9, 2022, Mr. Guevara appeared before the Court for a preliminary and detention hearing. Upon the conclusion of the hearings, the Court found probable cause for the charged offenses but released Mr. Guevara to the third-party custody of the la pasada halfway house.

(3) Mr. Guevara acknowledges he has a right to have his case presented to a grand jury within 30 days from the date of the preliminary hearing. However, Mr. Guevara hereby waives his right to have an indictment or information filed within 30 days and requests an additional sixty (60) days, for a total of ninety days (90) days of excludable time for the purposes of the

Speedy Trial Act.

(4) Counsel needs time to review the discovery, conduct a defense investigation, review same with Mr. Guevara and thereafter confer with government counsel.

(5) The defense needs time within which to conduct a defense investigation and thereafter determine the most favorable course of action for Mr. Guevara pre-indictment. Therefore, it would be a waste of Government and Court resources to have to convene a grand jury for this case. *See United States v. Toombs*, 574 F3d 1262 (10th Cir. 2009).

(6) Counsel for Defendant and the government believe that additional time within which to attempt to reach a pre-indictment resolution is necessary, there is no need to present this matter to a grand jury. Such a pre-indictment resolution will conserve both prosecutorial and judicial resources. *See United States v. Hernandez-Mejia*, 406 Fed. App'x. 330, 338 (10th Cir. 2011) ("The Speedy Trial Act, 18 U.S.C. § 3161(h)(7), was intended not only to protect the interests of defendants but was also 'designed with the public interest in mind.'")(quoting *United States v. Toombs*, 574 F.3d 1262, 1273 (10th Cir. 2009)).

(7) Assistant United States Attorney Nora Wilson does not oppose this motion.

WHEREFORE, Mr. Guevara respectfully requests this Court enter an Order continuing the time limit for filing an indictment or information. He further requests that this waiver be valid for an additional period of sixty (60) days from the current deadline to May 9, 2022.

Respectfully Submitted,

/s/ Submitted Electronically 2/22/22

Erlinda O. Johnson
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CERTIFICATE OF SERVICE

I hereby certify that on this 22^d day of February 2022 I filed the foregoing pleading electronically through the CM/ECF system, which caused counsel of record for the United States, to be served with a copy of this pleading by electronic means.

/s/ Submitted Electronically 2/22/22

Erlinda O. Johnson